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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,
12 Plaintiff,

No. CR 88-0336 CRB

ORDER

13 v.

14 CALVIN LYNOL ROBINSON,
15 Defendant.
16 _____/

17 Now before the Court is defendant's motion to modify his criminal judgment pursuant to 18
18 U.S.C. § 3582(c)(1)(B)(2). Although § 3582(c)(1)(B)(2) is non-existent, it appears that the
19 defendant seeks to modify his judgment pursuant to either § 3582(c)(1)(B) or § 3582(c)(2).

20 Section 3582(c)(1)(B) provides that a court may modify a term of imprisonment "to the
21 extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal
22 Procedure." (Emphasis added). Defendant, however, fails to cite to statutory authority expressly
23 permitting the proposed modification. Furthermore, a review of the case file fails to disclose any
24 justification for the modification.

25 Section 3582(c)(2) permits a court to reduce a defendant's term of imprisonment if the
26 defendant "has been sentenced to a term of imprisonment based on a sentencing range that has
27 subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o)." Contrary
28 to defendant's argument, the Supreme Court's decision in United States v. Booker, 543 U.S. 220
(2005), "did not lower sentencing ranges, nor was Booker an action 'by the Sentencing

Commission'; therefore § 3582(c)(2), by its own terms, does not apply here." Carrington v. United States, 2007 WL 2597326, *2 (9th Cir. 2007).

Accordingly, defendant's motion is DENIED.

IT IS SO ORDERED.

Dated: October 03, 2007



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE